UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 2 5 2006

U.S. PATENT AND TRADEMARK OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte LALIT K. MESTHA, YAO RONG WANG and KENNETH J. MIHALYOV

Application No. 10/000,379

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on September 29, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the file indicates that the appellants filed a paper entitled "Amendment E (after final) on May 3, 2006. However, there is no indication that the Examiner considered the Amendment.

Application No. 10/000,379

Also, the Appeal Brief filed on May 3, 2006 reveals that the following required sections are missing:

- (1) "EVIDENCE APPENDIX," as set forth in 37 CFR § 41.37(c)(1)(ix); and
- (2) "RELATED PROCEEDINGS APPENDIX" as set forth in 37 CFR § 41.37(c)(1)(x).

A Supplemental Appeal Brief that is in compliance with 37 CFR § 41.37(c)(1)(ix) and 37 CFR § 41.37(c)(1)(x) is required.

Further, Information Disclosure Statements (IDS) were filed January 23, 2003 and March 25, 2004. It is not apparent from the record that the examiner considered the statements submitted or notified applicants of why his submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Accordingly, it is

ORDERED that the application is being electronically returned to the examiner:

- 1) for consideration and proper response of the Amendment;
- 2) to have appellants submit the missing appendices required by 37 CFR \S 41.37(c)(1)(ix) and 37 CFR \S 41.37(c)(1)(x);

Application No. 10/000,379

- 3) for consideration of the Information Disclosure Statements;
- 4) and for such further action as may be appropriate.

BOARD OF PATENT APPEALS AND INTERFERENCES

By: C. P. Edgel for Dale Shaw DALE M. SHAW

Deputy Chief Appeals Administrator

(571) 272-9797

GJH

PATRICK R. ROCHE FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, 7TH FLOOR CLEVELAND, OH 44114-2518